IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.9916 of 1997

Between:

1. Bandaru Ramayamma w/o. late Samayya,
   Salur, Vizianagaram District.
2. Vaddadi Venkata Raju, alias Nanaji
   s/o.late Seetharama Swamy, Salur,
   Vizianagaram District.
3. Vaddadi Narayana Rao s/o.late
   Seetharama Swamy,
   Salur, Vizianagaram District.
4. Pasumarthi Venkata Raju s/o.late Surya Rao,
   Salur, Vizianagaram District.
5. Pasumarthi Bangara Raju s/o.
   late Surya Rao, Salur,
   Vizianagaram District.

.. Petitioners

AND

1. The District Collector,

Vizianagaram District.

2. The Sub-Collector and Project Officer,

Parvathipuram, Vizianagaram District.

3. The Mandal Revenue Officer, Salur,

Vizianagaram District. ..Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more especially one in the nature of writ of mandamus to declare the order passed (which is yet to be delivered) in R.C.No.1973/94/HA dated 13-12-1996 by the Mandal Revenue Officer, Salur to resume the lands in S.No.322/1A of an extent of Acs.5-68 cents, S.No.322/1B of an extent of Acs.5-88 cents and in S.No.322/1C of an extent of Acs.3-44 cents without canceling 'D' Form patta, without giving any notice, without following the procedure laid down in A.P. Assignment of Land (Land Less Poor) Act, as illegal, arbitrary and against the principles of natural justice under Article 226 of the Constitution of India.

Counsel for the petitioners : Sri Ch.Murali Krishna

Counsel for the respondents : Government Pleader for Revenue

The Court made the following :

ORDER:

Heard the Counsel.

The Writ Petition is filed for a writ, order or direction more in the nature of mandamus declaring the order passed in R.C.No.1973/94/HA dated 13-12-1996 by the Mandal Revenue Officer, Salur to resume the lands in S.No.322/1A of an extent of Acs.5-68 cents, S.No.322/1B of an extent of Acs.5-88 cents and in S.No.322/1C of an extent of Acs.3-44 cents without canceling 'D' Form patta, without giving any notice, without following the procedure laid down in A.P. Assignment of Land (Land Less Poor) Act, as illegal, arbitrary and against the principles of natural justice under Article 226 of the Constitution of India and to pass such other suitable orders.

The writ petitioners aver that in the year 1961 'D' Form patta TM

642/71 had been granted in the name of P.Surya Rao, V.Seetha Rama Swamy and B.Samayya for an extent of Acs.15-00 cents in S.No.322/1, Kothavalasa village, Salur Mandal, Vizianagaram District. It is also stated that the original pattadars have been enjoying the said property in equal shares and had developed the same by spending huge amount. After the death of the original pattadars their legal heirs, the petitioners herein, are enjoying the said lands. It is also stated that the 1st petitioner is the wife of late Samayya and has been enjoying the land of an extent of Acs.5-68 cents in S.No.322/1A. The 2nd and 3rd petitioners are the legal heirs of V.Seetharamayya Swamy and they are enjoying the land for an extent of Acs.5-88 cents in S.No.322/1B and the 4th and 5th petitioners are the legal heirs of Surya Rao and they are enjoying the land for an extent of Acs.3-44 cents in S.No.322/1C. Several other details also had been narrated. The main grievance ventilated by the writ petitioners is that without following the procedure and without canceling the D Form patta granted in favour of the persons aforesaid, the impugned memo issued relating to the resumption of these lands cannot be sustained.

The respondents filed a counter affidavit wherein the granting of pattas in favour of Samayya, Rama Swamy and Surya Rao had been admitted and it is also stated that all the D Form pattadars are non-tribals and necessary changes were incorporated in both the village

and Mandal accounts of Kothavalasa village in favour of D Form pattadars. It is also stated that the landless poor tribals and non-tribals of Kothavalasa had occupied the assigned lands since these were not brought under cultivation as per the assignment Rules in view of the fact that they had migrated from Kothavalasa village long back.

From the facts narrated in the affidavit filed in support of the Writ Petition and the counter affidavit filed, it is clear that there is controversy relating to persons who are in actual possession of the property. Be that as it may, the fact remains that the procedure had not been followed and pattas standing in the names of the persons aforesaid had not been cancelled. Even to resume the lands, the procedure as contemplated by law may have to be followed. In the facts and circumstances of the case, the respondents are directed to maintain status-quo relating to possession of the lands in question until and unless the procedure is followed in accordance with law.

The Writ Petition is accordingly disposed of with the above directions. No costs.

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P.S.Narayana.,J

Date : 7-12-2004

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To

1. The District Collector,
   Vizianagaram District.
2. The Sub-Collector and Project Officer,
   Parvathipuram, Vizianagaram District.
3. The Mandal Revenue Officer, Salur,
   Vizianagaram District.
4. 2 copies to Government Pleader for
Revenue, High Court Buildings,
High Court of A.P.
Hyderabad.
5. 2 C.D. copies